

(iii) The committee may recommend, subject to approval by the Secretary, size certification procedures for olives used in the production of canned whole or pitted styles of olives: *Provided*, That if size certification for canned whole or pitted styles is implemented, marketing order sizes shall be adopted and size requirements in the U.S. Grade Standards shall not apply. Size certification of such styles shall be applicable to any or all sizes of olives recommended by the committee and approved by the Secretary pursuant to § 932.52(a)(2). Size certification procedures recommended to the Secretary may include but are not limited to the establishment of average count ranges, acceptable count ranges, and approximate counts (midpoints) for each variety or variety group.

(3) Each handler shall, under the supervision of any such inspection service, dispose of into noncanning use an aggregate quantity of olives, comparable in size and characteristics and equal to the quantities shown on the certification for each lot to be:

(i) Variety Group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, of a size which individually weigh less than  $\frac{1}{160}$  pound;

(ii) Variety Group 1 olives of the Ascolano, Barouni, and St. Agostino varieties of a size which individually weigh less than  $\frac{1}{140}$  pound;

(iii) Variety Group 2 olives, except the Obliza variety, of a size which individually weigh less than  $\frac{1}{180}$  pound;

(iv) Variety Group 2 olives of the Obliza variety of a size which individually weigh less than  $\frac{1}{140}$  pound;

(v) Such other sizes for the foregoing variety groups as are not authorized for limited use pursuant to § 932.52; and

(vi) Olives classified as culls.

(4) Notwithstanding the provisions of paragraph (a)(3) of this section, a handler may (i) meet any deficit in such handler's undersize obligation in one variety by disposing of, under supervision of the inspection service, as other than canned ripe olives, an equal quantity of undersize olives, of any other variety, or by so disposing of an equal quantity of olives of that or any other variety of sizes larger than undersize of a quality better than culls, and (ii) meet any deficit in such han-

dler's cull obligation in one variety by so disposing of an equal quantity of cull olives of any other variety, or by so disposing of an equal quantity of olives of any variety of sizes larger than undersize of a quality better than culls.

(5) Each handler shall hold at all times a quantity of olives equal to the quantities required in paragraph (a)(3) of this section, less any quantity previously disposed of as specified in such subparagraph.

(b) Whenever a handler receives a lot of natural condition olives, or makes a separation resulting in a subplot, solely for use in the production of green olives or canned ripe olives of the "tree-ripened" type, he may handle such lot or subplot without regard to the provisions of this section and § 932.52 only if (1) he notifies the committee upon receiving such a lot or making such a separation; (2) the identity of all such lots and sublots of olives is maintained by keeping them separate and apart from other olives he receives; (3) the packaged olives produced from such lots and sublots after processing are canned ripe olives of the "tree-ripened" type or green olives; and (4) there are no outgoing regulations pursuant to § 932.52 then applicable to packaged olives that are canned ripe olives of the "tree-ripened" type or green olives.

[30 FR 12629, Oct. 2, 1965, as amended at 33 FR 11267, Aug. 8, 1968; 36 FR 20356, Oct. 21, 1971; 47 FR 32909, July 30, 1982]

EFFECTIVE DATE NOTE: At 56 FR 49669, Oct. 1, 1991, in § 932.51, paragraphs (a)(3) (i), (ii), (iii), (iv) and the words "for the foregoing variety groups" in paragraph (a)(3)(v) were suspended indefinitely.

#### § 932.52 Outgoing regulations.

(a) *Minimum standards for packaged olives.* No handler shall use processed olives in the production of packaged olives or ship such packaged olives unless they have first been inspected as required pursuant to § 932.53 and meet each of the following applicable requirements:

(1) Canned ripe olives, other than those of the "tree-ripened" type, shall grade at least U.S. Grade C as such grade is defined in the U.S. Standards for Grades of Canned Ripe Olives (7

CFR part 52) or subsequent amendments thereto, or as modified by the committee, with approval of the Secretary, for purposes of this part.

(2) Except as provided in §932.51(a) (1) and (2), canned whole ripe olives, other than those of the "tree-ripened" type, shall conform to the single size designations set forth in the U.S. Standards for Grades of Canned Ripe Olives (7 CFR part 52) or subsequent amendments thereto, or as modified by the committee, with the approval of the Secretary, and shall be of a size not smaller than the following applicable size requirements, tolerances and percentages: *Provided*, That the Secretary, on the basis of a recommendation of the committee or other available information, may change such sizes, tolerances or percentages:

(i) With respect to variety group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, the individual fruits shall each weigh no less than  $\frac{1}{75}$  pound, except that (A) for olives of the extra large size designation, not more than 25 percent, by count, of such olives may weigh less than  $\frac{1}{75}$  pound each including not more than 10 percent, by count, of such olives that weigh less than  $\frac{1}{32}$  pound each; and (B) for olives of any designation except the extra large size, not more than 5 percent, by count, of such olives may weigh less than  $\frac{1}{75}$  pound each;

(ii) With respect to variety group 1 olives of the Ascolano, Barouni and St. Agostino varieties, the individual fruits shall each weigh not less than  $\frac{1}{68}$  pound except that (A) for olives of the extra large size designation, not more than 25 percent, by count, of such olives may weigh less than  $\frac{1}{68}$  pound each including not more than 10 percent, by count, of such olives that weigh less than  $\frac{1}{68}$  pound each, and (B) for olives of any size designation, except the extra large size, not more than 5 percent, by count, of such olives may weigh less than  $\frac{1}{68}$  pound each;

(iii) With respect to variety group 2 olives, except the Obliza variety, the individual fruits shall each weigh not less than  $\frac{1}{140}$  pound except that (A) for olives of the small size designation, not more than 35 percent, by count, of such olives may weigh less than  $\frac{1}{140}$  pound each including not more than 7 per-

cent, by count, of such olives that weigh less than  $\frac{1}{160}$  pound each; and (B) for olives of any size designation, except the small size, not more than 5 percent, by count, of such olives may weigh less than  $\frac{1}{140}$  pound each; and

(iv) With respect to Variety Group 2 olives of the Obliza variety, the individual fruits shall each weigh not less than  $\frac{1}{121}$  pound except that (a) for olives of the medium size designation, not more than 35 percent, by count, of such olives may weigh less than  $\frac{1}{121}$  pound each including not more than 7 percent, by count, of such olives that weigh less than  $\frac{1}{135}$  pound each; and (b) for olives of any size designation, except the medium size, not more than 5 percent, by count, of such olives may weigh less than  $\frac{1}{121}$  pound each.

(3) Subject to the provisions set forth in paragraph (a)(4) of this section and §932.51(a) (1) and (2), processed olives to be used in the production of canned pitted ripe olives, other than those of the "tree-ripened" type, shall meet the same requirements as prescribed pursuant to paragraph (a)(2) of this section: *Provided*, That olives smaller than those so prescribed, as recommended annually by the committee and approved by the Secretary, may be authorized for limited use but any such limited use size olives so used shall be not smaller than the following applicable minimum size: *Provided further*, That each such minimum size may also include a size tolerance (specified as a percent) as recommended by the committee and approved by the Secretary.

(i) Variety Group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties, of a size which individually weigh  $\frac{1}{90}$  pound;

(ii) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostino varieties, of a size which individually weigh  $\frac{1}{140}$  pound;

(iii) Variety Group 2 olives, except the Obliza variety, of a size which individually weigh  $\frac{1}{180}$  pound;

(iv) Variety Group 2 olives of the Obliza variety, of a size which individually weigh  $\frac{1}{140}$  pound.

(4) The Secretary may, upon recommendation of the committee, restrict the total quantity of limited use size olives for limited use during any crop year. Such restricted quantity

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shall be apportioned among the handlers by applying a percentage, established annually by the Secretary upon recommendation by the committee, to each handler's total receipts of limited use size olives during such crop year.

(5) Canned ripe olives of the "tree-ripened" type and green olives shall meet such grade, size, and pack requirements as may be established by the Secretary based upon the recommendation of the committee or other available information.

(6) The size designations used in this section mean the size designations described in (a)(1)(ii) of § 932.51.

(7) For the purposes of this part the committee may, with the approval of the Secretary, specify the styles of olives, including the requirements with respect thereto, for limited use.

(b) *Disposition requirements for limited use size olives.* (1) The requirements of this paragraph are in addition to and not in substitution of the requirements of § 932.51(a)(5).

(2) Each handler shall, under the supervision of the Processed Products Branch, USDA, or the Federal or Federal-State Inspection Service, dispose of limited use size olives into limited use or into noncanning use: *Provided*, That whenever a handler's use of limited use size olives is restricted pursuant to § 932.52(a)(4), such handler shall dispose of into noncanning use that quantity of such limited use size olives which is in excess of the quantity permitted for limited use.

(3) Notwithstanding the provisions of paragraph (b)(2) of this section, a handler may meet any deficit in his obligation to dispose of limited use size olives into noncanning use pursuant to this paragraph by disposing of, under supervision of the inspection service, an equivalent quantity of olives of a size larger than the limited use size and of a quality better than culls.

(4) Each handler shall hold at all times a quantity of olives eligible to meet the disposition requirements of this paragraph less any quantity previously disposed of as specified in paragraphs (b) (2) and (3) of this section.

[36 FR 20357, Oct. 21, 1971, as amended at 47 FR 32910, July 30, 1982]

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ductory text and paragraphs (a)(3)(i) through (a)(3)(iv) the words "but any such limited use size olives so used shall be not smaller than the following applicable minimum size: *Provided further*, That each such minimum size may also include a size tolerance (specified as a percent) as recommended by the committee and approved by the Secretary" were suspended indefinitely.

### § 932.53 Inspection and certification.

(a) Each handler shall have the olives such handler handles inspected and certified as for conformance with all applicable requirements pursuant to §§ 932.51 and 932.52 with respect to such handling. Inspection and certification for conformance with the requirements of § 932.51 shall be by the Federal or Federal-State Inspection Service, including certification as to size, and inspection for conformance with the requirements of § 932.52 shall be by the Processed Products Branch, USDA, except that the disposition of olives, other than as canned ripe olives, in accordance with the requirements of § 932.51(a)(3) may be under the supervision of any of such inspection services. A copy of each certification by the said inspection services, pursuant to the provisions of this section, shall be furnished to the committee.

(b) The committee may enter into an agreement with either or both of said inspection services with respect to the costs of the inspection required by this section and may collect from handlers their respective pro rata share of such costs.

[30 FR 12629, Oct. 2, 1965, as amended at 47 FR 32910, July 30, 1982]

### § 932.54 Transfers.

Transfers within the area of olives from one handler to another for further handling within the area are permitted. Whenever such a transfer of olives is made, the transferring handler shall comply with all applicable regulations up to the time of such transfer, and the receiving handler shall comply with all applicable regulations subsequent to such transfer: *Provided*, That the disposition obligations referable to transferred natural condition olives pursuant to § 932.51(a)(3) may be transferred along with the olives, in which event the receiving handler shall comply with the disposition obligations.